THE EXACTIONS AND IMPOSITIONS OF *PARISH FEES* DISCOVERED.

Shewing the common Fees demanded for Chriſtenings, Marrying, Churching of Women, and the Burying the Dead; to be contrary to the Law, whereby Perſons may (if they pleaſe) ſave a great deal of the Expence they are generally at, for want of underſtanding the Law in thoſe Caſes; with a touch upon divers Clerical, and Parochial Errors, that are crept into the Church.

And the Opinion of Mr *Strange*, Sollicitor-General to his Majeſty, on a Caſe here ſtated.

By FRANCIS SADLER, B. M.

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BRITISH MUSEUM

DISCOVERED.

PAPISM FEES

OF

IMPOSITIONS

AND

EXACTIONS

THE

THE PREFACE.

CANDID Reader, the Subject I have undertook may appear to ſome as ſurpriſing as uncommon: And I muſt confeſs I was not a little ſurprized myſelf, to ſee ſuch unwarrantable Practices in the beſt reformed Church daily committed with Impunity; namely, the ſelling of the Offices of the Church; the refuſing to perform diverſe Offices therein without the (pretended) Fees firſt paid, together with ſuch oppreſſive and exorbitant Demands as have occaſion'd

abundance of People, (especially the poorer sort) to complain, and groan under them. I could heartily wish some more able and learned Pen than mine had taken this Subject in hand, there being more then a bare probability, that for one Fault I have found, they would have discover'd ten, although I have been threatned to be torn to pieces for what I have written, could it be proved to come within the verge of the Law: Indeed I believe some People take it for granted, that what is done by a Vestry carrieth a sufficient Sanction along with it, without giving themselves any further trouble to enquire into the Legality of it. What I have written is chifly a Collection from Authors of the best Authority; and to corroborate my Pretensions, I have it from under the Hand of one of the most ablest Counsellors at Law, That there is no Fee to be paid for the Ground of the Churchyard, for any that die in the Parish; and if there were any thing due to the Minister, it ought to be certain, and always alike; and I have taken the liberty to print the same with the Book, that my Antagonists may see I am neither afraid, nor ashamed of the Opinion of so eminent a Man of the Law. And if any Person has a mind to take a view of the Case, Queries, and Opinion of the learned Counsel, the original Case under his own Hand writing may be seen at my House at Stangate, Lambeth, *in* Surry. *I have been threatned to be*

sued

ſued both by the Clerk and Sexton for adviſing the poor People to make an offering to the Miniſter according to their Ability, without complying with their exorbitant Demands; and they have likewiſe threatned to ſue thoſe that have barely made an offering to the Miniſter for performing the Offices of the Church; but neither Miniſter, Church-wardens, Clerk, nor Sexton, ſeparately, or in Conjunction, have undertook to proſecute me, or any other, that only made an offering, although we have buried ſome hundred Corpſes without paying them their Fees, as their call them.

And I appeal to the great God, who is the ſearcher of all Hearts, That I did not ſet Pen to Paper either out of Prejudice, Paſſion, Partiality, or Intereſt, but with a real intent to put a ſtop to the Prophanation of the Church, and the Oppreſſion of the Poor. And I do ſolemnly declare, that I have ſo great a Veneration for the Clergy of the Eſtabliſh'd Church, that I ſhould rejoice to ſee all our poor Benefices were made ſufficient to maintain the Clergy, to ſupport their Dignity, as Ambaſſadors of Chriſt, and Men of Learning. But ſo long as there is ſo many rich Lay Impropriators, there will be ſuch poor Vicarages; although there is a Law now in force, that it is in the power of the Dioceſan to ſummons the Impropriator to ſhew Cauſe why he doth

not allow a better Maintenance to the Vicar. A very good Law when put in Execution; for then there might be enough to maintain the Clergy without Pluralities, and leave no room for the Enemies of our Church longer to revile us with careleſs Non-reſidence, encroaching Pluralities, unconſcionable Simony, and neglect of Duty.

Aran Sachar

CASE.

THE Inhabitants of the Pariſh of *A* apprehend they have been very much Impoſed upon in reſpect of the Fees or Duties that have been paid by them for burying of the Dead. It having been a common practice to ſell the Ground in the Church-yard wherein the Dead are buried at different Prices, and frequently to aſk more than was taken, which gave room to ſuſpect that there was nothing at all due: And upon peruſing ſome Books that treat of the Fees and Profits, *&c.* which belong to the Clergy; they were confirmed in that Opinion, for in the Clergyman's *Vade Mecum*, pag. 261. It is expreſs'd, that Sacraments muſt be adminiſtred freely, and *ex officio*.

And in pag. 263. It is expreſs'd, That the Prieſt muſt not demand Money for reading the Office of Burial, or breaking up the Ground; for either of thoſe, with the Canoniſt, are deemed direct Simony.

And Sir *Simon Degge*, in his *Parſon's Counſellor*, pag. 175. ſays, That by the Cuſtom of *England*, every Perſon (except ſuch as therein are excepted) may be buried in the Church-yard of the Pariſh where he dies, without paying any thing for breaking up the Soil.

And

And in pag. 189. he ſays, Church-yards are conſecrated Ground, and participate of the Privileges belonging to the Church, and that the Pariſhioners may there freely bury their Dead without Contradiction, or paying any thing for breaking the Soil.

Therefore ſeveral of the ſaid Inhabitants have agreed to ſtand by and defend each other, in caſe they, or either of them, ſhall be ſued or proſecuted for refuſing to pay any unwarrantable, or illegal, Fees or Duties, that ſhall or may for the future be demanded of them for burying their Dead in the Church-yard; and for that purpoſe have by writing under their Hands, bound themſelves reſpectively to each other to bear and pay a proportionable part, or ſhare of ſuch Charge and Expence that any, or either of them ſhall be put unto by ſuch Suit or Proſecution as aforeſaid.

QUERE.

Therefore whether any, or what Fees or Duties are due and payable to the Parſon of the Pariſh, or any other Perſon for burying the Dead in the Church-yard.

And if any, whether the ſame ought not to be certain and always alike.

This caſe ſtated as above, was laid before Mr Strange *now Solicitor-General, who return'd the following as his Opinion.*

I think every Pariſhioner has an undoubted Right to be buried in the Church-yard without paying any Fee for breaking of the Ground; and

and I think it will be the ſame in the caſe of an accidental Death, and of one not a Pariſhioner: It being for the ſake of the Living that the Dead ſhould be buried. The beſt way to try the Right to theſe Fees, is to pay what is demanded, proteſting againſt the Right, and then to bring an Action for Money had and received to the uſe of the Party who is compell'd to pay it, who ſhould be the Executor, or Adminiſtrator. A Variation in the Fees, is a ſtrong Evidence againſt the Right, for if any thing is due, it ought to be certain.

The following QUERE *was alſo aſked.*

Whether it may be deemed unlawful for the Inhabitants to enter into ſuch Agreement as aforeſaid, and how the ſame will be conſtrued in the Eye of the Law.

To which Mr Strange *returned for Anſwer.*

Where the Queſtion concerns all the Inhabitants, or a body of Men, as Commoners, or the like, theſe Agreements are not deemed illegal,

THE

Exactions and Impoſitions

OF

PAROCHIAL FEES

DISCOVERED.

A Paper having been delivered to the Pariſhioners of *Lambeth* in *Surrey*, relating to Pariſh Fees, wherein it was aſſerted, That all Money demanded, and taken by the Miniſter, or any other Perſon, or for the Miniſter, or for any other Perſon for a Fee, for the performing any Offices of the Church, for the Ground of the Church-yard, or the uſe of any

thing belonging to the Church, is ſimonical, and defrauding of the People, under the pretence of Law; for that there is no other Dues belonging to the Church, but Glebe, Tythes, and Offerings, for the maintenance of the Miniſter that hath the Cure of Souls within the Pariſh, and the Church Rates.

It being Simony to demand and take Money for performing any Office of the Church; as alſo to take Money for breaking the Ground of the Church-yard; and ſimonical to take Money for the uſe of any thing belonging to the Church.

It is making the Church a Market-Houſe, to take Money for the uſe of any thing belonging thereto. But, not notwithſtanding 'tis Simony to take Money for the performing any Office of the Church, yet any Perſon that hath any Office of the Church performed muſt make an Offering to the Miniſter, for the performing of the Office; but if the Perſon that hath the Office performed hath but a Penny, and tendreth that for the Office, it is a ſufficient Offering; for there is no Law or Canon preſcribes what Sum ſhall be offered.

The chief Motive that induced the Author to undertake the Vindication of the aforeſaid Paper, was becauſe he had great Reaſon to ſuſpect there was too much Oppreſſion and Fraud cover'd under a ſpecious pretence of Law; and having zealouſly oppoſed and expreſſed his abhorrence of ſuch vile Proceedings and Practices; has been often vilified with the odious epithets of Fool, Knave, and what not; and ſome Perſons of Diſtinction, having taken

taken the liberty to ſpeak contemptibly of the Undertaking, as coming from an illiterate Mechanic, from whom they could expect no great ſhare of Learning, and whoſe Judgment they might wiſely preſume had never been ſufficiently poliſh'd by Education; to them he muſt humbly confeſs that he cannot pretend to much Learning (tho' a great Admirer of it.) His chief Deſign being to open the Eyes of his Fellow Subjects and Pariſhioners, eſpecially the poorer ſort, that they might not be ignorant how greatly they were impoſed upon in parochial Fees, (falſly ſo called) to be conſtrained to part with their Properties to the Clerk or Sexton who have exacted thoſe pretended Fees for the Miniſter, and their own uſe; he does not here preſume to aſſert that what he has here written is done with the utmoſt Exactneſs, (for he utterly renounces Infallibility) but does honeſtly and plainly aſſure the Reader, that they are Collections from Books of unqueſtionable Authority; having been well received both by the ancient and modern Divines of the Eſtabliſh'd Church; and although the garb it is dreſſed in may appear to ſome too uncouth and unbecoming one in his Station; being but a mean Mechanic, yet he hopes his Occupation and want of Time will plead an excuſe for coming ſhort of the refined modern mode of Speech, it anſwering his end, if underſtood by the commonalty; and if they receive any Advantage by his Labour, is all he wiſhes and deſires. If he has made any uſeful Diſcoveries of what before was not ſo fully underſtood (at leaſt by many

of the lower claſs) he will eſteem his Time and Charge well employ'd; yet did he not labour under narrow Circumſtances, and a daily Care to provide for a large Family, he might have ſwelled this ſmall Tract into a larger Volume; nor had he ever appear'd in Print, had it not been for Juſtice ſake. And hopes the candid Reader will accept of his Good-will to ſerve his Country; having no other view than to prevent the Church being prophan'd, and other Impoſitions by Perſons who aſſume a Prerogative beyond the Law, to the Damage of ſeveral poor Families, who unable to ſtand in Competition with the Rulers and opulent Men of the Pariſh, daily groan under their arbitrary Proceedings. If what he has written be ſufficiently warranted by authentick Authors, his Deſign is juſtified; and for Threats and Detraction I neither fear nor value; for if what I have inſerted is falſe, let them ſue me as a Libeller, tho' I could ſooner pardon thoſe who ſought manfully to take away my Life, than they who baſely murder my good Name; being perſuaded that the Wounds which are given by the Tongue of a Slanderer cut deeper than thoſe that are given by the Sword. And it is a great Aggravation to any Man, who has perſonal Courage enough to face his greateſt Enemy.

I ſhall now proceed with all Conſpicuity and Brevity I am capable of, in Vindication of the foregoing printed Paper, which has been ſo ſeverely ridiculed and cenſured by my Adverſaries, and given them great Umbrage; and herein I propoſe the following Method.

Firſt

Firſt, I ſhall ſhew how unjuſt and unreaſonable it is to take Money for the performing any Office of the Church, or the Ground of the Church-yard for burying the Dead.

Secondly, The ſcandalous and ſhameful (though common) practice of making People pay a proportionable Rate for the uſe of the Bell, when rung for the deceaſed.

Thirdly, That a Pariſh hath no legal Power to make a Table of Fees; and that all Money extorted from the People under that pretence; or an Order of Veſtry, is no better than Robbery under the pretence of Law, except the Poors Rate and Church Rate.

Fourthly, I ſhall ſhew how the Church Rate ought to be raiſed, and how applied when raiſed, together with the practice of moſt Pariſhes of laying out their Money when it is raiſed.

Firſt, I am to conſider the Unlawfulneſs of taking Money for the performing any Office of the Church, either by Miniſter, Clerk, or Sexton: And ſhall endeavour to prove that it is contrary to the Laws of both God and Man. There are ſeveral Paſſages in Holy Writ to evidence the Truth thereof, particularly in the firſt Book of the Prophet *Samuel*, Chap. ii. ver. 16. where it is ſaid, That the Sons of *Eli* took the Offerings of the People by force from them, for which they were called the Sons of *Belial*. And Chriſt, the Eternal God, when he drove the Money-Changers out of the Temple, told them, *My Houſe ſhall be called*

called of all Nations the Houſe of Prayer, but ye have made it a Den of Thieves, Mark xi. ver. 15. And he ſaid to his Apoſtles, *Freely have you received, freely give*; which Words plainly imply a forewarning of them not to take any Money: But it is to be feared too many of our Clergy (in theſe Days) look upon Money as their chief Good, or they would not venture to put Heaven to ſale, by ſelling the Offices of the Church; for daily experience aſſureth us, that where there is no Money there ſhall be no Office perform'd. St *Auſtin* and St *Gregory* held the taking of Money in the Church, to be Hereſy, if not the Sin againſt the Holy Ghoſt. See *Parſon's Counſellor*, pag. 42. And our own Canons of *James* I. ſays thus, To avoid the deteſtable Sin of Simony, becauſe the buying and ſelling of Spiritual and Eccleſiaſtical Functions, Offices, Promotions, Dignities, and Livings is execrable before God, &c. Canon 40; No Miniſter ſhall refuſe or delay to Chriſten any Child, according to the Form of the Book of Common Prayer, that is brought to him to Church on Sundays, or Holidays to be chriſtned; or to bury any Corps that is brought to the Church, or Church-yard, Canon 68. It is the burying the Dead for which there is ſuch extravagant Fees demanded, when there is none at all due, but an Offering to the Miniſter, for performing the Office. It is taken for granted by moſt People, that thoſe Fees are a juſt due, and ſome Clergymen have been ſo exorbitant as to threaten to ſue for double Fees for burying the Dead; and we find a very remarkable In-

ſtance

ſtance in the *Parſon's Counſellor*, pag. 155. where he tells us, That it was on account of the burying of a Child; that was the Cauſe of the firſt diſpute touching the King's Supremacy in *England*; and in the Acts of the Church, in *Hunn* and *Horſey's* Caſe, and is thus related, *Hunn* had a Child died, for which a Fee was demanded; but *Hunn* ſaid the Child had nothing, and as it had nothing, nothing could be paid; and it was their place to bury their Dead, upon which *Hunn* was cited into the Commons for not paying, but *Hunn* moved it by a Prohibition to Common Law, and caſt them; and ſued Dr *Horſey* in a Premunire for demanding of Money where there were none due, as you may find in *Kelwayes's Reports*, pag. 182. upon which *Horſey* cauſed *Hunn* to be arreſted on ſuſpicion of Hereſy, and committed him to *Lollard's* Tower, the Biſhop of *London's* Priſon, where *Horſey* and the Goaler murder'd *Hunn*; as you may find in the Church Acts the Caſe of *Hunn* and *Horſey*. This Cauſe was brought before the Parliament, and after hearing the Merits thereof, that Auguſt Aſſembly made an Act what ſhould be paid for a Mortuary for the Dead, and is thus expreſſed, (*viz.* and to make good Tythes not paid, by the Decedent when alive)

1. That no Man ſhould pay a Mortuary, unleſs he died poſſeſſed of Goods to the Value of ten Marks.

2. That

2. That no Mortuary ſhould be paid or demanded but in ſuch places where they have uſed to be paid or given.

3. That they ſhould be paid but in one place, and that at the Party's moſt uſual place of Dwelling and Habitation, and there but one Mortuary, and that after the Rate following, *viz.*

4. That if the Decedent at the time of his Death had in moveable Goods to the value of ten Marks clearly, his Debts firſt paid; and under the Sum of thirty Pounds, then he ſhould pay three Shillings and four Pence, and no more; and this muſt be out of the moveable Goods, and not in Chattles.

5. That if the Decedent died poſſeſſed of Moveables of the value of thirty Pounds, and under the value of forty Pounds, to pay ſix Shillings and eight Pence, for a Mortuary, or an Offering for the Dead.

6. If the Decedent's Goods be of the value of forty Pounds and upwards, then to pay ten Shillings for a Mortuary.

7. That no married Woman, Child, or Perſon not keeping Houſe ſhould pay any Mortuary, nor a Way-faring Man, *Stat.* 21. *Hen.* VIII. *chap.* 6. this is all that can be demanded, except an Offering for the performing of the Office of the Church. *Note*, This was done in the times of Popery and Superſtition, when Money was given to pray them out of Purgatory, that Money was given for burying of the Dead.

I ſhall

I ſhall in the next place ſhew what is the Miniſter's Due, which I ſhall endeavour to prove from authentic Authors, and not from my own Conjecture.

The Profits and Fruits of a Parſon or Vicar are his Glebe, Tythes, and Offerings eſtabliſh'd by Law, for the Maintenance of the Miniſter that hath the Cure of Souls within the Pariſh, *Parſon's Counſellor*, pag. 190.

There is no diſpute about the Glebe or Tythe being the Miniſter's Due, but it is the Offering that is in diſpute, what, and for what they be.

Mr *Shephard*, in his *Parſon's* Guide, telleth what Offerings are, as followeth; Offerings (ſaith he) are reckoned among perſonal Tythes, which are ſuch as come by mens honeſt Labour and Induſtry, in ſome perſonal Work, *Parſon's* Guide, pag. 4. Thoſe that pay Tythe for Lands, need pay no *Eaſter*-Offerings. Oblations, Obventions, were ſaid to be ſuch things real or perſonal as were offered to God and his Church by Teſtament, *Parſon's* Guide, pag. 4.

Let us now ſee what the Statute of *Edw.* VI. Cap. 13. ſays, That all and every Perſon and Perſons, which by the Law and Cuſtom of this Realm, ought to make or pay their Offerings, ſhall yearly from henceforth well and truly content, or pay, his, or their Offerings to the Parſon, *&c.* And where Handicraftmen have uſed to pay their Tythes or Offering within this forty Years, the Cuſtom is to be obſerved, (here perſonal Tythes are called Offering, and muſt be as the Cuſtom of the Place is.) And Sir *George Crook* ſays, that in ſome Places Servants pay the Parſon or Vicar a ſmall Sum in

the nature of an Offering; *Crook*'s Reports, Vol. I. pag. 247. If Offerings be not a perſonal Tythe, there is no perſonal Tythes due: Biſhop *Stilingfl.* Eccleſiaſtical Caſes, pag. 252.

That Offerings for an Office of the Church being performed is due, is not denied, but there is no certainty in an Offering, as is the Cuſtom and Practice almoſt in all Places; for if a great Bell be rung for the Dead, then it is a great Price, as if the ſound of the Bell enhans'd the largeneſs of the Offering; But Sir *Symon Degg*, in his *Parſon*'s Counſellor ſaith, There being no Canon or Law, that preſcribes any certainty in the Quantity, Value, or Things to be offered, I can give them no properer Name than Voluntary or Free-will Offerings; *Parſon*'s Counſellor, pag. 351. And thoſe Clergymen that demand Money for the performing any Office of the Church are guilty of Simony in ſo doing; and in the Clergyman's *Vade Mecum* theſe are his Words; However the Opinion of thoſe who take *Eaſter-Offerings* to be paid for the Sacrament is leſs tolerable then that of *Lynwood*, for that is directly contrary to the intention of many antient Canons which called this Simony. I am ſenſible, that the Canoniſts with their Sophiſtry, taught the Clergy to evade theſe Canons, particularly by telling them, that tho' they might take nothing for Baptiſm, yet they might ſell the Water before it was conſecrated, to the Parents of the Child: And they might with as much reaſon ſay, that though Money might not be given for the Euchariſt, yet the Hoſt before Conſecration might be purchaſed by him who was to receive it; but Sa-

craments

craments are to be administred freely, and *ex officio*, pag. 264. And again he says, for the Canon Law condemns it as gross Simony, to take or pay Money for Sacraments, or any sacred Office, or breaking up the Ground; for either of these are with the Canonists direct Simony, or refusing to perform any religious Office without having the Money first paid; this on all Occasions they declare to be Simony, pag. 263. Now if there be so many Laws, (as most certain there is) with what assurance can there be such Demands for burying of the Dead, as there is; for, if it be Simony to take Money for the breaking of the Ground of the Church-yard, how can the Clergy suffer the Church-wardens to take Money for the Ground, which is their Property, (as I shall shew by and by.) In the mean time I shall demonstrate that in conformity to the Rubrick and Canon, no Minister should go to a private House to baptize a Child that is like to live, and use the publick Office of Baptism in private, and expect to be recompensed for the same; so that the pretence of being paid for his Journey is more unconscionable than to take a Reward for the Water, for then he expects to be paid for acting contrary to his Duty. See Clergyman's *Vade Mecum*, 262. So that upon the strictest Inquiry into the Matter, it will be found, there is no other Duties belonging to the Church but Glebes, Tythes, and Offerings; and that all other Demands of Money is Extortion, and defrauding the People under the pretence of Law. It has been reported and complained of, that some Rectors have not been satisfied with

their Tythes, Glebe, and Offerings, but muſt participate of the Money exacted by exorbitant burying Fees; and many times the Money ſo extorted is from People who have labour'd under ſuch narrow Circumſtances, as to be compelled to pledge their neceſſary Utenſils to purchaſe a Coffin and Shroud; and afterwards been obliged to their Neighbours for their charitable Contribution to help to defray theſe exorbitant Fees, illegally, and conſequently unjuſtly taken. Thus having ſhewn, with the utmoſt brevity and perſpecuity as poſſibly I could what are Clergymens Dues; I ſhall conclude this Head with that remarkable Paſſage in the Parſon's Counſellor of the Council of *Triburienſis*, Canon 16, pag. 175. where it is preremptory declared, there is nothing ought to be demanded or paid for Burials. In the next place, I ſhall ſhew the Duty of the Clerk, what his Office is, and who are to chuſe him, and by whom to be paid.

The Clerk's Duty in the firſt place, is to attend the Miniſter at Divine Service, and to keep the Seats and Church clean; and for that purpoſe to have in his cuſtody the Keys of the Church, to ring to Prayers, and to do other Offices pertaining to the Church. *Parſon*'s Counſellor, pag. 184.

Biſhop *Stillingfleet* in his Eccleſiaſtical Caſes, ſaith, There were of old ſeveral Clerks belonging to the Church, and they were all maintained by the Miniſter at his own Charge, pag. 131, 132. Now if the Miniſter is obliged to maintain the Clerk, I would gladly know by what Law the Clerk can demand a Fee,

Fee, (as has been too commonly practiſed) for the Office of any part of the Church, who neither doth, nor dare preſume to perform any Office of the Church; and he can claim no more right to a Fee for any Office of the Church being perform'd, than a Highwayman has to the Money he takes by Robbery: I will take the liberty to aſk ſuch Mercenaries one Queſtion, (*viz.*) If the Law will puniſh a Man for doing a thing, can any Man think that he who is puniſhable for doing that thing, has any right to be paid for the thing being done; the parallel holds good with relation to the Clerk, for he dare not perform any Office in the Church; and if he is not allowed to perform, how can he have any thing due, if there was any thing due; having ſhewn what his Office is, and who is to pay him. I proceed to ſhew in the next place, who is to chooſe him. By Canon 91, he is to be choſen by the Miniſter, but by the Book 3 *Edw.* III. *Annuits* 40. he is choſen by the Pariſhioners: And in Mr *Huge's* Parſon's Law, he hath theſe Words, The Pariſh Clerk is an Officer in the Church too, but he is moſt commonly a Layman, and no Eccleſiaſtical Perſon, and his Office is a lay Office; and therefore is to be choſen by the Pariſhioners, and not by the Parſon or Vicar alone; and he is removeable upon Cauſe from his Office at their Will and Pleaſure, as appears by the Book of the 3 *Edw.* III. *Annuits* 40. Theſe are the Words of Mr *Huges* in his Parſon's Law, pag. 115. And by the Lord Chief Juſtice *Coke*, and the whole Court, it was adjudg'd, That the Canon was againſt the Common-Law

in *Cundit*'s and *Plumer*'s Caſe; for ſo is the Book 8 Aſſi. *James* I. And my Lord *Coke* order'd an Information to be drawn againſt the Spiritual Court, for holding Plea of a thing which was meerly Lay, 8 Aſſi. 29. Thus I have ſhewn what the Clerk's Office is, and who is to chuſe him; (but if the Pariſhioners chuſe him they are obliged to pay him by the Year 3 *Edw.* III. *Ann.* 40. I ſhall now proceed to ſet forth what prerogative the Church-wardens have to lett out the Church Ornaments for Money; and by what Authority they take Money, (or rather ſell the Ground of the Church-yard.) The letting of the Bell, and obliging People to pay for the uſe of it, when rung for the Dead. I would not be ſuſpected to lay any Imputation upon Church-wardens for taking of the Money, ſince they are impower'd to take it by order of Veſtry, (which is taken for granted by the Commonality, to be a legal Authority:) But altho' it is contrary to Law, and conſequently unjuſtly taken, as bearing no Sanction; yet is it very orderly brought to the Pariſh Accompts, without the leaſt heſitation or ſcruple of Wrong done by impoſing upon the Pariſhioners; therefore I ſhall by and by ſhew what Power a Veſtry hath to raiſe Money, and for what, and how applied, when raiſed; In the mean time I ſhall ſet forth by what Authority the Church-wardens ſell the Ground of the Church-yard, which is the Miniſter's Freehold, though the Fee-ſimple is not in him, therefore has no Power to put to ſale the Ground of the Church-yard, on no account whatſoever; for it is Simony to make ſale of any thing belonging

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to the Church; for the Miniſter has no right to ſell, although the Freehold is in him; the Fee-ſimple is not in him; and no Man can ſell that hath not the Fee-ſimple in him; that the Miniſter is not inveſted with the Fee-ſimple, is plain from that famous Author *Coke* upon *Littleton*. The Intendment and Conſideration of the Law; it was provided that it ſhould be ſo, by the Wiſdom and Policy of the Law, that the Parſon or Vicar who hath the Cure of Souls, and are bound to celebrate Divine Service, and adminiſter the Sacraments, might have ſomewhat to live upon; and therefore the Law provided, That the Fee-ſimple of the Glebe ſhould be out of them; *Coke* upon *Littleton*, pag. 341. For if the Fee-ſimple was in the Miniſter then he might ſell, and ſo leave his Succeſſor nothing to live upon; but the Freehold is in him without doubt, and the Fee-ſimple in the Patron; but the Parſon himſelf (as I ſaid before) hath the Freehold in him, as alſo the right of the Church and Church-yard; Parſon's Law, *chap.* 21. *pag.* 33. The Church-yard therefore is a common Burying-place for the Pariſhioners, although the Free-hold be in the Incumbent; Clergyman's *Vade Mecum*, *pag.* 19. The Freehold of the whole Church and Church-yard are in the Parſon, or Rector; *Parſon's Counſellor*, pag. 162. and by *Stat.* 11. *H.* IV. 12. and 21 *H.* VII. 21. The Freehold of the Church and Church-yard is the Miniſter's. I ſhall now conſider what Power the Church-wardens have to ſell the Ground of the Church-yard, and as the Freehold is proved to be in the Miniſter, what Prerogative have the Church-wardens to

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ſell the Freehold of the Miniſter, and by what Authority they make the People pay for burying of the Dead in the Ground they have no Property in; and thoſe Church-wardens that demand, and take Money for the Ground of the Church-yard, and know it to be the Miniſter's Freehold, defraud and rob the People under the Pretence of Law, although the Miniſter is the greateſt Aggreſſor, who knows that the Church-yard is his Property, and will ſuffer it to be ſold; therefore the Miniſter that ſelleth the Ground of the Church-yard, or ſuffereth it to be ſold, is guilty of Simony; and I am perſuaded there are few or none of our Clergy can plead Ignorance on that Score; again, tho' the Freehold be in the Miniſter, the Pariſhioners may bury the Dead without leave of the Miniſter, or Church-wardens, or paying for the Ground; but what ſeems to give it a Sanction, it is done by Order of Veſtry, and therefore muſt be Law; wherefore I think it incumbent upon all Miniſters to acquaint the Pariſhioners that it is out of the Power of an Order of Veſtry, or even himſelf, to take Money for the Ground of the Church-yard, ſuch illegal and irregular Proceedings has often proved a ſore Grievance to poor People, who have been often conſtrained to pawn and ſell that which they could never be able to redeem again, on the Score of being compelled to pay for the Ground to bury their Dead in; and I am perſuaded, had ſuch mercenary vile Proceedings been practiſed when Chriſt was upon the Earth, he would have ranked all ſuch Perſons among the Number of Money-changers, that buy and ſell within the Church.

Church. Sir *Simon Degg* in his *Parſon's Counſellor*, ſaith, that the Church-yard is free, theſe are his Words, It is conſecrated Ground, and participate of the Privileges belonging to the Church before-mentioned, and the Pariſhioners may here bury their Dead without Contradiction, or paying any Thing for breaking the Soil, *page* 184. Now with what Pretence can Money be demanded for breaking the Ground, as is cuſtomary in almoſt all Places, eſpecially in and about *London*; and muſt the long Continuance and pleading Cuſtom for ſuch arbitrary Proceedings paſs for Law, or becauſe the Clerk or Sexton keeps an Office where you are obliged to go and pay your Money beforehand, or otherwiſe you may keep your Dead above Ground for them, when at the ſame Time there is no more Right to pay for the Ground, than to give Money to a Highwayman for riding along the Road. The next Thing that cometh under Conſideration, is, the paying for the Bell, when rung for the Dead, a Practice in all Pariſhes by an Order of Veſtry at firſt, but not being founded upon any Law, it ought to be looked upon as a meer Artifice to extort Money from the People, for what Power can a Veſtry have to make a Law, who cannot raiſe Money to maintain their own Poor of themſelves, (as I ſhall ſhew hereafter) however by Virtue of their Authority, you muſt pay for the Uſe of the Bell; and if you will not pay for the ringing of the Bell, I dare venture to give it under my hand, you will have no Bell rung, though at the ſame time, aſſure you, it is at your own Option whether

you will have a Bell rung or not; it is apparent, that Diſſenters have no Bell rung for them, by reaſon it is the Practice in all Places, that if you have a Bell rung, you are obliged to pay the Parſon and Clerk their Fees, as they call them, whether they bury the Corps or no, as if the ringing of the Bell entitled them to an Offering, as much as if they had performed an Office of the Church; but, ſure I am, where there is no Office perſormed, there is no Offering due (except *Eaſter* Offering). Let us now ſee what the Law ſays touching the Bell being rung for the Dead, and to whom the Bells belong, and upon what account they may be uſed; by our Canon Law, a Bell ſhall be rung for any Perſon dying, or to be buried; the Canon runs thus, When any Perſon is dangerouſly ſick in any Pariſh, the Miniſter or Curate having notice thereof, ſhall reſort unto him or her (if the Diſeaſe be not known, or probably ſuſpected, to be infectious) to inſtruct and comfort them in their Diſtreſs, and when they are paſſing out of this Life, a Bell ſhall be tolled, and the Miniſter ſhall not then ſlack to do his laſt Duty, and after the Party's Death (if it ſo fall out) there ſhall be rung no more then one ſhort Peal, and another before the Burial, and one after the Burial, Canon 67. *N. B.* Here is no mention made of paying for the Uſe of the Bell, but that a Bell ſhall be rung, which implies a poſitive Command for the doing of it, whether paid for or not; from whence I infer, if it be lawful to let out any of the Church Ornaments for Money, it would be the Pariſhioners due to have

have it, for the Bells and the reſt of the Church Ornaments are the Pariſhioners, in the Hands of the Church-Wardens, *Parſon's Counſellor*, *pag.* 177. If we may be allowed to ſuppoſe it lawful to make the Houſe of God a Houſe of Merchandize, (which is expreſsly prohibited both by divine and human Law) there is no Reaſon, neither Law, that a Man ſhall pay for the Uſe of his own; for all the Ornaments of the Church are as much one Man's as another's, and no Man is indebted to another for the Uſe of his own; for could Mr *Juſtice* have proved that he had been a Fellow of the College, as he was a Gentleman-Commoner at *Cambridge*, he then would have had a Right to the Books that was found upon him, and not have been tranſported; for the Queſtion upon his Trial was, Whether he was a Fellow, or only a Gentleman-Commoner, and he could not prove himſelf a Fellow; and by the ſame Parity of Reaſon, we may as well ſay, That a Man muſt pay for living upon his own Freehold, as to pay for the Uſe of his own. In ſhort, the only principal Uſe of the Bell is to be rung for the Dead, and to give notice that divine Service, is a-going to begin, which is all the Uſe for which Bells were at firſt inſtituted; but are now often appointed to be rung on Rejoicing Days, and for Pleaſure, altho' in moſt Chriſtian Countries they are dedicated to God, before they are put up in Churches, as are all other Ornaments for the Service of the Church, and the Church itſelf muſt be dedicated before Divine Service can be performed in it, for if there is Sin committed either in

the Church or Church-yard, the Church muſt be reconſecrated; there ſhall be no Fairs nor Markets in the Church or Church-yard, nor Muſtering of Soldiers, according to the Canon, which ſays, That the Church-Wardens and their Aſſiſtance, ſhall ſuffer no Plays, Feaſts, Banquets, Suppers, Church Ales, Drinking, Temporal Courts, or Leets, Lay-Juries, Muſters, or any other profane Uſage in the Church, Chapel, or Church-yard, Canon 88. And Sir *Simon Degg*, in his *Parſon's Counſellor*, ſays, that by the Council of *Nice*, it was decreed, That if any Murder, Adultery, or Fornication is committed, or the Church burnt, or the Altar removed, the Church muſt be reconſecrated, *Parſon's Counſellor*, *pag.* 162. It is a great Indignity to our eſtabliſhed Church to be reproached by the Kirk of *Scotland*, who will not ſuffer their Churches to be profaned by Money-Changing, and their Miniſters are content to live upon their Tythes, and Dues, and not to put to Sale the Word of God, for they have nothing for the Performance of any Office of the Church, neither do they ſell the Ground of the Church-yard, or take Money for the Uſe of any Thing belonging to the Church.

It is now Time to conſider what Authority a Pariſh hath to make a Table of Fees, (as they are called) which is done in moſt Pariſhes, and to give it a Sanction (the better to impoſe upon the Ignorant) have it carried to *Doctor's Commons*, and there filed up as Law, and the Canoniſts are ſo juſt, as they will allow of taking Money in the Church, tho' their Law expreſsly ſays none ſhall be taken; but we have

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too often found Right, and Wrong, confounded and ſunk by ſophiſtical Terms and Diſtinctions among the *Logicians*; for it is not in the Power of any Court of Judicature to make a Law, for no Law can be made but by the three Eſtates aſſembled in Parliament; and I remember, when ſome Gentlemen were accuſed before the Houſe of Commons for being Abettors in a Riot, they were committed to the Gate-houſe, by order of that auguſt Aſſembly, whereupon they moved the Court of King's Bench to be admitted to Bail, when that impartial Judge the Lord Chief Juſtice *Holt*, with an undaunted Courage, ſaid, That he valued not a Vote of the Houſe of Commons, nor a Vote of the Houſe of Lords, nor an Order in Council; when it paſſed into a Law, he would obey it, till then it was no Law, and that thoſe Gentlemen were bailable by the Law of *England*. If the King, Lords and Judges together, without the Houſe of Commons, whoſe ſole Prerogative it is to give Money, cannot make a Law, how much leſs dare a Veſtry, who are often compoſed of illiterate Tradeſmen, when met together, aſſume a Power of making Laws to raiſe Money, and that perhaps to be told over a Grid-Iron, when all Grants of Lands and Hereditaments made in Truſt to the Uſe of the Church-Wardens (tho' but for a Term of Years) is void, becauſe they are no Corporation, *Stat.* 23. *H.* VIII. *ch.* 10. Church-Wardens can receive no Lands, nor let Leaſes, *Coke* upon *Littleton*, *pag.* 3. And if they are not impowered to receive Lands, how can they ſue for Money, they pretend to raiſe, as is contrary

contrary to Law; they cannot ſue for Money for the Maintenance of the Poor till ſigned by the Bench of Juſtices, much leſs ſue for Money of their own Authority and Power; it is forbid by the Laws of God and Man to raiſe Money of Things within the Church, conſecrated and dedicated to God. Mr *Hughes*, in his *Parſon's* Law, ſays, That the Pariſhioners cannot ſue the Church-Warden, that hath any ways waſted the Church-Goods, for there is no Law to help them, *Parſon's* Law, *pag.* 115. Thus far I preſume I have made appear, That a Veſtry hath no Power to raiſe Money by a Table of Fees, otherwiſe called Surplice-Fees; and I refer the Reader likewiſe to that great and remarkable Cauſe in the fifth Year of the Reign of *James* I. in the Caſe of Cuſtoms, Subſidies, and Impoſts, upon Judgment given in the Exchequer, when the Judges were all ſummoned to conſult on the ſame, *Popham* Chief Juſtice of the King's-Bench, and *Coke* Chief Juſtice of the Common-Pleas, gave their Judgment, as followeth, That the Rule of the Common Law is the People's Regiſter; alſo another Rule, That the King may charge his People to a Thing which may be to their good, but not to their charge, *Stat.* 13. *Hen.* IV. 16. and by *Magna Charta*, which hath been confirmed thirty Times, none ſhall be taxed but by Parliament, and of long Time it hath been uſed by Parliament to grant to Kings at the beginning of their Reign, certain Subſidies of Tonnage and Poundage for Term of Life, which began the ſecond and third of *Hen.* V. and the thirty-ſecond of *Hen.* VI. *cap.* 8. and 12.

Ed. IV. *cap.* 3. by which it plainly appears, none but the Parliament can impoſe any Thing on the Subjects, in any caſe whatſoever, *Coke's Reports*, Vol. 12. in the caſe of Cuſtoms, Subſidies, and Impoſts. I ſhall in the next Place ſhew, wherein, and in what reſpect the Laity have an Advantage of the Clergy, (*viz.*) If the common People ſue for that that is not their due, they only pay the Damage and Coſt, but if the Clergy ſue (in many Caſes) they may bring themſelves in a *Premunire*, that is, they are Enemies to the King and Country, and out of the Protection of the Law, which Act of *Premunire* was made to put a Stop to the Power of the Pope and Clergy in the Times of Popery, for they were then for getting all into their Hands, for which cauſe this Act was made to hinder them; by the Act of *Premunire* they forfeit all their Goods and Lands, and to be impriſoned when this Act is in Force againſt them, and this Act lies againſt them when they ſue for their Tythes in the Eccleſiaſtical Court, when they have been ſet out from the nine Parts, for then they ſhould ſue for the carrying them away at Common Law, and not in Court Chriſtian, and ſo of a Mortuary, if delivered and retaken, or any Eccleſiaſtical Judge to decide that by the Civil Law which belongeth to the Common Law, the Biſhop of *Norwich's* Caſe, 25. *Hen.* VIII. *Coke's Reports, Vol.* 12. *Caſe of Premunire.* Or if the Parſon ſue for a Fee for the performing any Office of the Church, as Chriſtening, Marrying, Burying, or Churching of Women; if you firſt make your Offering to him for the ſame, for there

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is no other Due, for Burying, Chriſtening, Marrying, and Churching of Women, but an Offering; and if the Parſon ſue you for a Fee when you have made your Offering, you may ſue him in a *Premunire*, as in *Hunn* and *Horſey*'s Caſe, *Kelway*'s *Reports*, *pag.* 118. Thus you may ſee how they ſtand.

The Breach of an Act of Parliament that is in force is puniſhable, for it is the breaking of the Laws, (and that Man that is aiding and aſſiſting in raiſing of Money without Authority of Parliament, is guilty of a Miſpriſion of Treaſon) and may be indicted in any of His Majeſty's Courts for the ſame, by any Perſon whatſoever; therefore let all Men have a ſpecial Regard to what they are about, when they aſſume a Prerogative of raiſing Money by the Power of a Veſtry; for if it was in the Power of one Man to Tax another, we ſhould ſoon ſink under the Burden of Impoſts and Taxes, and who knows what they may do with the Money they raiſe; if it was in the Power of two or three to raiſe Money, they might put it in their Pockets, or perhaps apply it to worſe Purpoſes, by raiſing a Rebellion, or maintaining a litigious Law-Suit, to keep the right Owner out of his Property, who is not able to ſtand in Competition with them; but to clear up this Head, and render the Subject-Matter unanſwerable, there is an expreſs Act of Parliament, that none ſhall raiſe Money but the Parliament alone, by the Statute of *Petition of Right*, 3 *Ch.* I. None ſhall be compelled to make or yield any Gift, Loan, Benevolence, Tax, or ſuch like Charge, without Conſent,

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by Act of Parliament: And upon Refuſal ſo to do, ſhall not be called to make Anſwer, to take any Oath, not warranted by Law, give Attendance, or be confined, or otherwiſe moleſted concerning the ſame, nor for Refuſal thereof, neither ſhall any free Man be impriſoned or detained without Cauſe ſhewed, *Stat.* 3. *Ch.* I. *ch.* 1.

And having ſhewed in what Reſpect they cannot raiſe Money, I now proceed to ſhew how far their Power reacheth to raiſe Money. The mending of the Highways is raiſed by Law, and not by the Power of a Veſtry. The Poors Rate is out of the Power of the Veſtry to raiſe, tho' they are bound to maintain them, for the Poors Rate is raiſed by Authority of Parliament, and not by the Power of a Veſtry; the Veſtry may take it under their Conſideration what Sum of Money will ſuffice to maintain their Poor for two or three Months, or longer, tho' by Law, it ſhould be raiſed weekly, but they cannot by their own Authority raiſe one Farthing without its being ſigned by two Juſtices at leaſt, and one of them to be of the *Quorum*, as appears by *Stat.* 43. *Eliz. ch.* 2. The Veſtry are authorized by a Statute of *George* I. to build a Work-houſe to keep the Poor in, for the better Conveniency of ſetting them to Work: There is other Money raiſed in all Pariſhes that has not the Sanction of the Legiſlature, (*viz.*) The Watch-Money; which is raiſed by the Conſtable, this is often done by Veſtry, and there ſettled what every one ſhall pay, if he do not watch, and the Juſtices will ſend their Summons to the Conſtable

to return them that do not pay; I had almoſt ſaid this is an Impoſition of the Juſtices upon the Conſtables, the Juſtices having no further Prerogative over the Conſtable, as touching the Watch, than as the Statute of *Wincheſter* directs in the fifth of *Hen.* IV. *cap.* 3. which peremptorily declares, That none but Cities and Towns corporate ſhall watch, and they only from *Aſcenſion-Day* to *Michaelmas*; and *Henry* having got the Crown from *Richard* II. got this Act made, that there ſhould be Watch kept for fear they ſhould be ſeized, for *Richard* who was a Priſoner in *Pomfret* Caſtle; this was the Cauſe for what Watching was firſt inſtituted, and not for a Man to leave his own Houſe to Watch about the Streets, neither can the Juſtices or Conſtable compel any Man to pay the Watch *nolens volens*, except *London* and *Weſtminſter*, and other incorporated Places, as appears in the Caſe of *Acton* the Clock-Maker of *Gravel-Lane* in *Southwark*, *London*, who ſtood Trial with the Juſtices, and caſt them at *Croydon* in *Surry* Aſſizes the 26th of *July* 1733, and had a Verdict againſt them for offering to make him pay the Watch. Thus have I endeavoured to ſhew with all Perſpicuity and Brevity, what Money is raiſed by Authority of the Legiſlature, and what is raiſed contrary to Law; I am now to conſider in what reſpect a Veſtry hath Power to raiſe Money, which are only theſe following, (*viz.*)

For the Repair of the Church, the Fences of the Church-yard, and Church-Ornaments; for it is the poſitive Law of the Land, that each individual Pariſh ſhall maintain their Pa-

riſh Church, and keep up their Church-Ornaments, and the Money that is raiſed for the Repairs of the Church, the Fences of the Church-yard, or the Repairs of Books, Surplices, Bells, or any other of the Church-Ornaments, muſt be raiſed in manner following, (*viz.*)

The *Sunday* before the Church-Wardens deſign to make a Levy, they are to give publick Notice in the Pariſh Church, immediately after Divine Service, of the Time and Place deſigned for making the intended Levy, and then at the Time and Place appointed, the Church-Wardens and Pariſhioners there met are to conſider what Sum of Money will be neceſſary to be raiſed, for ſuch Repairs as ſhall be then needful; and afterwards the Church-Wardens, or the major Part there preſent, are to proceed to make an equal Levy upon all the Land-holders, and Pariſhioners in the Pariſh; *Coke's Reports, Vol.* V. *pag.* 67. But even this is not raiſed by their ſole Power alone, but by the Statute of *Circumſpecte Agatis*, that obligeth the Pariſhioners to maintain their Church; ſo that upon the whole Matter there can be no Money legally raiſed, but by Authority of Parliament; and all Money that is raiſed, for which there is no Act of Parliament, deſerves no other Epithet than a felonious Impoſition under the Pretence of Law, and is no better then Robbery; Money raiſed for the Repairs of Bridges, County-Goals, and Money loſt between Sun and Sun is lawful, and has the Parliament Aſſent to ratify it.

I now come to the laſt Thing propoſed, a Cuſtom in moſt Pariſhes, and the Practice of moſt Church-Wardens, in laying out what Money they think fit, and obliging the Pariſhioners to repay them, ſo that there is often a great deal of Money raiſed, and little Work done; and if any Pariſhioner is inquiſitive and deſirous to know what is done with the Money, it is ten to one he is ſtigmatized with ſome opprobrious Names, and counted an ignorant and impertinent Blockhead; and they look upon it as a great Condeſcenſion in them, if they admit you to a Sight of the Bricklayers and Carpenters Bills, ſo that in Courſe all muſt be right then, as if a Receipt for Twenty Pounds was not as eaſily given as a Receipt for Ten Pounds; which it is to be feared is too common a Practice in Pariſhes, or there could never be ſo much Money raiſed every Year for ſo little Work done. I now come to ſhew that the Church-Wardens cannot proceed alone to the Repairs of the Church; for if they lay out any Money of their own accord, the Pariſhioners may refuſe to repay them, altho' they have had Notice from the Viſitors in their Viſitation to repair the Church, but muſt compel the Pariſhioners to do it by Eccleſiaſtical Cenſures, *Hetley's Reports, pag.* 61. Thus I have given a ſhort Specimen how the Church Rates muſt be raiſed, and that the Church-Wardens cannot proceed alone, and by Virtue of their own Authority. I ſhall conclude this Head with ſhewing that all Money ſpent at Veſtry Meetings by Pariſh Officers, is unjuſt and illegal; for perhaps there ſhall half a Dozen who pre-

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tend to negotiate the Pariſh Affairs, and ſhall meet only to regale themſelves at the Pariſh Expence. Having ſhewn the Power of a Veſtry in raiſing Money, I come now to conſider the Sacredneſs of the Church and Church-yard, that it ſhould not be profaned, for if Murder or Adultery be committed in the Church or Church-yard, or the Church new built, it muſt be reconſecrated. I muſt confeſs, I have heard of a Church rebuilt, and not conſecrated. The Church and Church-yard are held ſo ſacred, that if one Man ſtrikes another, or ſhall draw any Weapon in the Church or Church-yard, with an Intent to ſtrike, ſhall have one of his Ears cut off, but if he hath no Ears, then to be marked in the Cheek with a hot Iron, with the Letter F, and be excommunicated by *Stat.* 5. *Edw.* VI. *cap.* 4. I have already ſhewn the Deſign of Bells, except that antient and commendable Uſe of the Bell, called *Corfeu Bell*, which began in the Time of *William* the Conqueror, and is conſtantly rung from *Michaelmas* to *Lady-Day*, in ſeveral Country Towns in this Kingdom at Eight a-Clock at Night, as a Guide to Travellers, who were benighted, which by the Sound of the Bell have been led to Quarters of Refreſhment, who for want thereof had been expoſed to the Hardſhips of the Weather all Night, upon Moors and Commons to the Hazard of their Lives: This *Corfeu* ſerved alſo for an Inſtruction to the Town's People, who when the Bell began to ring, put out their Fire, in order to go to Prayers with their Families, before they went to Bed; and this Cuſtom is retained in ſeveral Towns to this Day,

Day, particularly at *Coleſhill*, in *Warwickſhire*, nigh unto *Blyth-hall*, the Seat of that elaborate and painful Antiquary Sir *William Dugdale*, to whom the Church is ſo much beholden, for ſetting forth what Lands are diſcharged from Tythes, and what not; and where they lay in all Parts in *England*, and the Dominion of *Wales*.

1. I now come in the ſecond Part of this Treatiſe to ſhew the Duty of the People to their Miniſter, and the indiſpenſible Obligation they lie under to make their Offering to him, the manner of performing their Offering, and for what.

2. I ſhall likewiſe ſhew what is incumbent in the Diſcharge of the Miniſter's Function towards the People, and wherein it is preſumed there may be a Deficiency, (not that I pretend to preſcribe Rules to my Guides and Directors, that would be looked upon to correct the *Magnificat*) but my Deſign is only to direct the meaner Sort, how far they may inſiſt upon their Privileges, when attempted to be incroached upon, or invaded.

3. I ſhall ſet forth the Obligation of Church-Wardens, and what they are bound to perform in the Diſcharge and Execution of their Office, by virtue of the ſolemn Oath they have taken, and not to flatter themſelves (as it is to be feared) too many have done, that they have diſcharged their Duty, and their Conſciences, by drawing up a ſtated Form of the Pariſh, *All is well*, and preſenting it at the Viſitation, when perhaps at the ſame Time, upon Enquiry,

Enquiry, the moſt material Articles are concealed, if not buried in Oblivion.

In the firſt Place, I am to ſhew the Duty of the People to their Miniſter, and how and in what manner they are to make their Offering to him. The Peoples Duty to the Miniſter is at all Times to honour him as God's Vicegerent, commiſſioned by the Almighty to take Care of their Souls, and therefore are ſtrictly forbidden to withhold their Tythes from him, and Tradſmen obliged to make their Offerings to him at *Eaſter*, for their perſonal Tythes; and if they have any Office of the Church performed for them, they muſt make their Offering according to their Ability; for all Perſons are bound to make an Offering, if they have any Office performed for them, as appears by the moſt profound Gentlemen of the Long Robe, to be the Law of *England*; Sir *Simon Degge* in his *Parſon's Counſellor*, ſays, That upon the whole Matter it appears, there were ſome Offerings free and voluntary, which the Pariſhioners and others were not bound to perform, but at Liberty; there were others by Cuſtom, certain and obligatory, as thoſe for Marriages, Chriſtenings, Churching of Women, and Burials, *pag.* 344; and again, he ſays, theſe Offerings which were free and voluntary are now vaniſhed, and are not comprehended within this Law; but thoſe that were cuſtomary and certain, as for Commmunicants, Marriages, Chriſtenings, Churching of Women, and Burials, are confirmed to the Pariſh-Prieſt, Vicars, and Curates, *pag.* 345.

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In the Clergyman's *Vade Mecum*, it is thus expreſſed, Offerings are occaſional upon Churching, Marrying, and Burials, *pag.* 258. Having ſhewn that Offerings are lawfully taken, and that the Miniſter may take whatever is given to him as an Offering, be it more or leſs, and muſt be content with what is offered him. I ſhall now proceed to ſhew the manner of making their Offering, when they have any Office of the Church performed for them; if it is for Marrying, they are bound to make their Offering then preſent to the Miniſter, and the ſame likewiſe for Churching, or for the receiving of the Communion, and for Chriſtenings; as touching the Burial of the Dead, and to prevent exorbitant Fees and Impoſitions; I have collected the following Rules as a ſure Guide in an erring Age; and, if poſſible, to prevent for the future, all illegal Exactions and Impoſitions demanded by the ſubordinate Officers of the Church, which has given great Umbrage to Perſons of all Denominations, and in particular to the Diſſenters from our preſent happy Eſtabliſhment, who have preſumed to traduce the whole Hierarchy; for Faults committed by ſome of the mercenary Under-Graduates of the Church, who are only anſwerable for the ſame, and the Church in no ways to be blamed; on account of ſome treacherous backſliding Members of it; therefore when you have any Corps to bury, go or ſend to the Miniſter of the Pariſh, (not to his Curate) and give him notice what Day, and what Time of the Day or Evening you will come with your Corps to the Church, (for if you are deſirous

to

to carry them in the Church, you may if you pleaſe) for the Rubrick of the Church ſays, The Miniſter ſhall meet the Corps at the Church Porch, (ſee the Rubrick concerning the Burial of the Dead) which plainly implies, the Corps may be carried into the Church, for what ſhall they do at the Church Porch, if they did not go into the Church, and when you have buried your Corps, make your Offering to the Parſon that performeth the Office, whether it is the Miniſter or not; but if the Miniſter is a Non-Reſident; (as it is to be feared there are too many ſuch) then go to his Curate, and give him timely notice of the Day, and Time you will bury the Corps, for were you to give the Clerk or Sexton notice, and not the Miniſter, you might then perhaps not have your Dead buried at all, and the Miniſter might urge it as a Plea in Excuſe, that he was not acquainted with the Matter, and ſo guard himſelf within the Law; but when you have given a previous notice, if he be in your Pariſh, (for all Pariſhes are alike) then he can have no Pretence to excuſe himſelf; and if he be a Non-Reſident, or out of Town, then give his Curate the ſame notice, then there can be no room for Evaſion, but lay themſelves open to the Law, if they refuſe to bury the Dead; as for the Grave, you may dig it in what Part of the Church-yard you pleaſe, provided you diſturb no other Corps. I muſt confeſs there is an Order of Veſtry in ſome Places, that would give us to underſtand, that one Part of the Church-yard is three times as dear as another; in ſeveral Places. But I hope I have ſufficiently proved already that the Church-

yard is not to be ſold, to keep the Rich and the Poor aſunder, as if there were a Difference in their Duſt; I would gladly be reſolved, upon what account this Diſtinction is made; ſure it is not in reſpect of our Birth, for we have all *Adam* for our Father on Earth, and God in Heaven; and we are altogether commanded to ſay, *Our Father which art in Heaven*; not in reſpect of our Souls, for the Price of our Redemption is all alike; not in reſpect of our Bodies, for the Prince is made of no better Duſt than the Peaſant, nor the Biſhop then the Sexton; not in reſpect of the Underſtanding, for many Servants know more than their Maſters. But to return to the Grave, at which Place, if you do not make your Offering, take Care when you do, that you make it to the Miniſter that performed the Office, or the Miniſter of the Pariſh, and not to the Clerk or Sexton, that the Miniſter may have no Occaſion to ſay he knew nothing of the Matter, and by ſuch falſe Steps, and irregular Proceedings, bring yourſelf into Trouble, for not making your Offering as you ought, and as becometh you to do to your Miniſter.

I have already ſhewn that there is no Certainty in an Offering, but at your own Option, for the Widow that put in two Mites, it was as much from her, or more, than thoſe that caſt a great deal into the Treaſury out of their Abundance. Having thus far ſet forth the Duty of the People to their Miniſter, and the indiſpenſible Obligation they lie under to make their Offering to him; the manner of performing their Offering, and for what. I come in the ſecond Place to conſider, wherein it is incumbent on

the Miniſter, in the Diſcharge of his Function towards the People; and when he may be ſuſpected to be ſupine and negligent therein, *Padro Paulo* in his Hiſtory of the Council of *Trent*, as I find it, in the *Engliſh* Tranſlation, obſerves, That in the firſt Seven Hundred Years after Chriſt, there was not ſuch a Thing in the Weſtern Church, that any Man ſhould have an Office or Title in the Church, and not do the Duty, *pag.* 217. And the greateſt Part of the Prelates there in that Council, held that Reſidence was *Jure Divino*, *pag.* 486. What ſhall we ſay then to thoſe who leave the Care of the Souls of their Pariſhioners to an Hireling, and that for ſix Months together, and ſometimes longer. Sir *Simon Degg* in his *Parſon's Counſellor*, obſerves, That the Commons of *England* often complained againſt Pluralities, and Non-Reſidence; and in the Parliament held the ſecond *Hen.* IV. The Commons prayed that all ſuch as procured from *Rome* (for in thoſe Days they came from *Rome*) any Bulls for Pluralities and Non-Reſidence, ſhould incur the Pain of *Proviſos*, *pag.* 76. And in a Parliament held the 8th of *Hen.* IV. The Commons petitioned that the King might have a Moiety of the Profits of all Benefices, where the Incumbent was Non-Reſident, *pag.* 76. The like was prayed in the Parliament of the 9th of *Henry* IV. In the Parliament of 4th *Hen.* VI. it was prayed by the Commons, That all Parſons, Vicars, and others having Cures, and not being Reſident thereupon, ſhould forfeit their Benefices, the one half to the King, and the other to the Patron, *pag.* 76. And in the Parliament the ſaid Year, the Com-

mons prayed that for Non-Reſidence of the Incumbent, the Patron might preſent a new Clerk, and great Reaſon in my Judgment, *pag.* 77. There is an Act againſt Non-Reſidence, and is thus expreſſed, That as well every Spiritual Perſon then being promoted to any Arch-Deaconry, Deanry or Dignity, in any Monaſtery or Cathedral, or other Church, Conventicle, or Collegiate, or being beneficed with any Parſonage or Vicarage, as all and every Spiritual Perſon, which then after ſhall be promoted to any of the ſaid Dignities or Benefices, with any Parſonage or Vicarage from the Feaſt of St *Michael* then next following, ſhould be perſonal Reſident, and abiding in or at upon the ſaid Dignity, Prebend, or Benefice, or one of them at leaſt; and that if any ſuch Perſon wilfully abſented themſelves from the ſaid Benefice, *&c.* by the Space of a Month at one Time, or two Months at ſeveral Times in one Year, to be accounted at ſeveral Times, that ſuch Perſon ſo abſenting himſelf, ſhould forfeit Ten Pound for every ſuch Default, the one half to the King, and the other half to the Informer, to be recovered as the Act expreſſes; that if any Perſon ſhould procure any Diſpenſation from *Rome*, or elſewhere, to be Non-Reſidents, the Party guilty ſhould forfeit Twenty Pound, by *Stat.* 21. *Hen.* VIII. *cap.* 13.

The Obſervations of Sir *Simon Degg* upon this Statute are, (*viz.*) By this and other Statutes mentioned in this Book, it is evident that the Parliament of *England*, even when the Pope was in full Power, often made bold with his Holineſs to correct his and his Courts Corruption.

This

This was certainly an excellent Law, if there had been no more in it, but the diſpenſing with ſuch Perſons, as by the ſame Law are qualified for two Livings, and the Perſons capable to qualify Chaplains to have Pluralities, had not grown ſo numerous, inſomuch that there are but few of the beſt Livings, but what are held by Plurality, and they either under Pretence of attending their Lords, their Deaneries, and Prebends, find an Excuſe to be Non-Reſident, which has made this Law of little Effect, nay, I wiſh I could not ſay, that we are now in a worſe Condition than before the making of this Act, for Diſpenſations (as all other Things from *Rome*) were chargeable and coſtly, as being far fetched, and coming ſlowly; that I preſume there is ten Diſpenſations for Pluralities now, for one then; and few of theſe diſpenſed with were Non-Reſidents upon both Livings as now they be; two great Pariſhes in many Places being left to the Care of two Boys that came the other Day from School, perhaps fitter to be there ſtill, whilſt the Shepherd that takes the Fleece feaſts it out in his Lord's Family, or takes his Eaſe upon a Prebend or Deanry, *pag.* 78 and 79. how near ſuch Practices may be ſaid to come up to that old Proverb of kindling a Torch at *Jupiter's* Altar, and robbing the Church by the Light of it, I leave the reader to judge. A Biſhop may be compelled hereunto by eccleſiaſtical Cenſures by their Superiors, and the King may compel them by ſeizing their Temporalities, a notable Preſident whereof we have in the Time of *Hen.* III. when Popery was at the higheſt, and the King was not look-

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ed upon as Head of the Church, yet that King ſent his Writ Mandatory to the Biſhop of *Hereford* to be Attendant upon his Biſhoprick, otherwiſe he would ſeize of all his Temporalities, *Parſon's Counſellor*, *pag.* 82. and the 41 Canon, *James* I. forbids Non-Reſidents. This good Law principally aimed at three Ends or Effects, (*viz.*) That every Clergyman might attend his Duty, in reading the publick Prayers of the Church, adminiſtring the Sacraments, Preaching, inſpecting the Behaviour of his Flock, and performing all ſacred and divine Offices, like a good and faithful Shepherd; and I do wonder with what Conſcience any Clergyman can expect his Dues from his Pariſhioners, that does not perform his Duty in the firſt Place. The ſecond End of this good Law is to avoid Dilapidations in the Buildings belonging to their Livings, for you ſhall ſeldom ſee a Non-Reſident, but he is alſo a Dilapidator; and it is no wonder that he that neglects the Flock lets the Sheepfold go to ruin. The third End of this good Law was to maintain Hoſpitality, and I would wiſh every Clergyman to remember that the Poor have a Share in the Tythes with him, *Parſon's Counſellor*, *pag.* 79. and by *Stat.* 15. *Rich.* II. *cap.* 6. and 4 *Hen.* IV. *cap.* 12. And by a Canon of our own made in the Time of King *Alfred*, it is decreed, That the Tythes ſhould be divided into three Parts, being firſt delivered to the Prieſt, one Part to the Repairs of the Church, another to the Poor, and a third to himſelf, by all which it appears that originally the Poor had a Share in the Tythes, which plainly implies the Clergy were to keep Hoſpitality,

tality, and to be Reſident, and not wilfully abſent themſelves, for till the 43d of *Elizabeth*, the Poor were ſolely under their Care, all muſt be Reſidents, except thoſe that are impriſoned without Fraud, or Removal without Fraud, for Health, or not having a Houſe upon his Glebe, *Coke's Reports*, *Vol.* 6. *pag.* 21. And thoſe accepted that are qualified by *Stat.* 9. *Edw.* II. *cap.* 8. and 21. *Hen.* VIII. *cap.* 13. 25. *Hen.* VIII. *cap.* 16. 33. *Hen.* VIII. *cap.* 28. And it is highly reaſonable, that all ſhould be Reſidents upon their Livings, for they have the Care of Soul and Body to, and are obliged to viſit the Poor and Rich alike; and if their Living will afford it, they ſhould help the Poor, when ſick, and in want; and one of the chief Reaſons in the *Romiſh* Church why the Prieſts are not allowed to marry, is, they ſhould have no other Family but the Poor; for in all Parts of the World, but our own Nation, there is no Proviſion for the Poor, but all under the Care of the Prieſt; and if they have a Family of their own, there will be little Care of the Poor taken, it is to be feared. But the chief Reaſon why they ſhould be reſident upon their Living, is, to take Care of the Souls of thoſe committed to their Care, to adviſe thoſe of mature Years to live as becomes the Goſpel of Chriſt, and they are to inſtruct all the Youth in their Pariſh, in order to ingraft the Principles of Chriſtianity in them, and are bound by the Canon Law to catechize every *Sunday*; the Canon runs thus: Every Parſon, Vicar, or Curate, upon every *Sunday* and Holy-Day before Evening Prayer, ſhall for half an Hour

or

or more examine and inſtruct the youth and ignorant Perſons of his Pariſh in the Ten Commandments, the Articles of Belief, and the Lord's Prayer, and ſhall diligently hear, inſtruct and teach them the Catechiſm, ſet forth in the Book of Common Prayer, and all Fathers, Mothers, Maſters, and Miſtreſſes, ſhall cauſe their Children, Servants, and Apprentices, which have not learned the Catechiſm, to come to Church at the Time appointed, obediently to hear, and be ordered by the Miniſter, until they have learned the ſame; and if any Miniſter neglect his Duty herein, let him be ſharply reproved upon the firſt Complaint, and true Notice thereof given to the Biſhop or Ordinary of the Place. If after ſubmitting himſelf, he ſhall willingly offend therein again, let him be ſuſpended, if ſo a third Time, there being little hope he will be therein reformed, then excommunicated, and to remain until he be reformed; and likewiſe if any of the ſaid Fathers, Mothers, Maſters, or Miſtreſſes, Children, Servants, or Apprentices, ſhall neglect their Duties, as the one Sort in not cauſing them to come, and the other in refuſing to learn as aforeſaid, let them be ſuſpended by their Ordinaries, (if they be not Children) and if they ſo perſiſt by the Space of a Month, let them be excommunicated, Canon 59. With all Reverence to that ſacred Order, I fear there are too many Pariſhes ſlighted, and too little Care taken to inſtruct the youth and ignorant; for tho' it is the indiſpenſible Dury of every Miniſter ſo to do, thoſe that are ignorant may be ignorant ſtill, for the Care that is taken by many to inſtruct them.

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But I am perſuaded, thoſe that are loſt through Ignorance, the Miniſter is anſwerable to God for them, where he takes no Care to inſtruct them: the Cuſtom is of late Years only to catechiſe in *Lent*, as if it were ſufficient that we aſk for our daily Bread only in *Lent*, as to catechiſe only in *Lent*; nay, ſome are ſo far from inſtructing the Ignorant, when they do catechiſe, that if they are at a Loſs in the Reſponſes, they will bid another go on, and let him or her remain in their Ignorance, ſo that they muſt all be ready inſtructed and taught to their Hands; by all which it appears that the Catechumen has nothing but the Form, without the Subſtance of catechiſing; there is another culpable and too common a Practice, that is, the ſhortening or curtailing of Divine Service, particularly at the Burial of the Dead, where oftentimes one half of the Service of the Church is left out, eſpecially at the Burial of the poorer Sort. Biſhop *Sprat* in his Charge to his Clergy, ſays, Only in the Office of viſiting the Sick, you are more left to your own Liberty, Clergyman's *Vade Mecum*, *pag.* 14 and 15. Pray how would any one like to have Divine Service begun at the Second Leſſon, and leave the reſt out, would not the Congregation think the Miniſter was in haſte to be gone. I could heartily wiſh all Clergymen to remember, that they have ſubſcribed to the Rubrick, Canons, and Articles; therefore he that ſhorteneth any Part of the Office of the Church, is falſe to his Promiſe and Subſcription, and liable to the Cenſure of the Ordinary, Clergyman's *Vade Mecum*, *pag.* 14.

Thus having ſhewn in what reſpect the Miniſter may be ſaid to have neglected and ſlighted the Commonality. I come now to my laſt Propoſition, (*viz.*) To ſhew what the Church-Wardens are obliged by Oath to perform in their Pariſh. I ſhall only mention one or two wherein the Pariſhioners are principally concerned. The Church-Wardens are bound by Oath to take Care that the Parſonage-Houſe be kept in good Repair, notwithſtanding it is often found not fit for the Miniſter to live in, but let the Parſonage-Houſe lie in never ſo miſerable a Condition, it is connived and winked at, and preſented to be very well and in good Order at the Viſitation, without any regard to the Tenor of their Oath; they cannot plead Ignorance, ſince it is Part of the Miniſter's Duty to inform, inſtruct, and adviſe them in that Affair; as for preſenting of People for Irregularities, they are not ſo much to blame, as ſome have inſinuated, ſince they fulfil the Contents of their Oath in that Article, which obligeth them ſo to do; ſee Canon 26. But what they are too commonly negligent in, is, they do not look into the Regiſter, and keep it under their Care and Charge, as they are by Oath bound to do; ſee the Canon concerning Regiſtring, which runs thus, (*viz.*) In every Pariſh-Church and Chapel within this Realm, ſhall be provided one Parchment-Book at the Charge of the Pariſh, wherein ſhall be written the Day and Year of every Chriſtening, Wedding, and Burial, which have been in that Pariſh, ſince the Time the Law

was

was made in that Behalf, ſo far as the ancient Book thereof, in that behalf can be procured, but eſpecially ſince the beginning of the Reign of the late Queen; and for the Safe keeping the ſaid Book, the Church-Wardens, at the Charge of the Pariſh, ſhall provide one ſure Coffer, with three Locks and three Keys, whereof the one to remain with the Miniſter, and the other two with the Church-Wardens, ſeverally, ſo that neither the Miniſter, without the Church-Wardens, nor the Church-Wardens without the Miniſter, ſhall at any Time take that Book out of the ſaid Coffer; and henceforth upon every Sabbath-Day, immediately after Morning or Evening Prayer, the Miniſter and Church-Wardens ſhall take the ſaid Parchment-Book out of the ſaid Coffer, and the Miniſter in Preſence of the ſaid Church-Wardens, ſhall write and record in the ſaid Book, the Names of all Perſons chriſtened, together with the Names and Sirnames of the Parents; as alſo the Names of all Perſons married and buried in that Pariſh in the Week before, and the Day and Year of every ſuch Chriſtening, Marriage, and Burial; and that done they ſhall lay up the Book in the Coffer as before, and the Miniſter and Church-Wardens unto every Page of that Book, when it ſhall be filled with ſuch Inſcriptions, ſhall ſubſcribe their Names, and the Church-Wardens ſhall once every Year, within one Month, after the five and twentieth Day of *March*, tranſmit unto the Biſhop of the Dioceſe, or his Chancellor, a true Copy of the Names of all Per-

ſons Chriſtened, Married, or Buried, in their Pariſh the Year before, (ending the ſaid five and twentieth Day of *March*) and the certain Days and Months in which every ſuch Chriſtening, Marriage, and Burial was had, to be ſubſcribed with the Hands of the ſaid Miniſter and Church-Wardens, to the end the ſame may faithfully be preſerved in the Regiſter of the ſaid Biſhop, which Certificate ſhall be received without Fee; and if the Miniſter or Church-Wardens ſhall be negligent in Peformance of any Thing herein contained, it ſhall be lawful for the Biſhop, or his Chancellor, to convene them, and proceed againſt every of them as Contemners of this our Conſtitution. Perhaps it may be urged, I have made too ſevere a Scrutiny into the Office of the Church-Wardens, in charging them with neglect of their Duty (to ſay no worſe) in not taking the Regiſter into their Cuſtody and Keeping. I do aſſure the Reader, it is not out of the leaſt diſreſpect to the Office, or any perſonal Prejudice, but on account of the many Complaints of great Inconveniencies which often ariſeth by the Clerk's having the Regiſter in his keeping, for it is not the Clerk's Buſineſs to regiſter, and to have it in his Cuſtody; but it may be objected, that all Perſons may have Recourſe to him to ſearch at Will and Pleaſure; whereas if it was locked up in a Cheſt, any Perſon that wanted to ſee it could not have Acceſs to it at all Times. To which I anſwer, That a Sight of the Regiſter may be as eaſily procured from the Church-Wardens as from the Hands of the Clerk. And I

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dare venture to ſay, There is leſs Danger of its being loſt, for the Clerk may run away with the Regiſter-Book, an Example whereof may be proved againſt one *Philips* late Clerk of *Lambeth*, in *Surry*, whereby the Pariſh became great Sufferers for Want of their Regiſter; and in ſuch a Caſe no Perſon that is fifty Years old, and born in the Pariſh, can then have a Tranſcript of the Regiſter to prove themſelves Heir to an Eſtate; and in *Batterſea* the next adjacent Pariſh, their late Clerk had been often found tardy, and detected in regiſtering Boys for Girls, and Girls for Boys, and not one half of the Regiſter-Book in his Time was correct and authentick, as it ought to be. Therefore, I appeal to the Reader, or any unprejudiced Perſon, whether Church-Wardens, as well in Juſtice to the Pariſh, as by the Tenor of their Oath, are not bound to prevent the ill Conſequences that may ariſe from ſuch Proceedings and Practices, when it is wholly in their Power ſo to do; many more Inſtances might be given of Pariſhes that ſuffered by Miſcarriages of the like Nature. But, I hope, I have ſaid enough to any Perſon that conſiders the Validity of an Oath, and makes Conſcience of it in the Diſcharge of his Office; and that it will appear to every candid and impartial Reader, that I have a great Veneration for the Clergy, particularly the Hierarchy of the Church of *England*, as by Law eſtabliſhed, altho' I am an unworthy Member thereof, notwithſtanding which I cannot but regret the many Hardſhips (daily complained of) and Sufferings ſeveral poor Fa-

milies have undergone by ſome of the ſub-ordinate Officers of the Church; and too often it is to be feared by the Connivance of their Maſters, whoſe Diſpleaſure, I chooſe rather to run the Hazard of, than to ſee my Countrymen, Neighbours, and Fellow-Subjects impoſed upon, and ſhamefully oppreſſed under the ſpecious Pretence of juſt and legal Dues, (when they have no Right or lawful Authority to demand them) and many Times proportion them, according to their Affections and Inclinations, which plainly implies they have no real Standard-Law to frame their Pretenſions by, notwithſtanding their Bug-bear-Threats of a Citation in *Doctors Commons*, according to their Table of Fees; but any unbiaſſed Perſon may eaſily diſcern their Prejudice againſt me, proceeds from my having confronted their Meaſures, and becauſe I ſeem to complain of their illegal Practices; but as it is impoſſible to pleaſe every one, I have not been ſollicitous to do it, yet, according to my poor Ability, I have laboured to undeceive ſome, who have taken for granted, all Veſtry Determinations and Parochial Impoſts are lawful, and to ſhew wherein they have been miſtaken, and to ſhew how far their Property and Privileges have been thereby invaded; and, I hope, many will find ſome Uſe and Benefit by this Abridgment and Abſtract, and kindly accept of my Endeavours, tho' it is not ſet out in an elegant Dreſs, but with as much plainneſs and brevity as I could, and as I ſhall always prefer the Intereſt of the Publick to my own, I ſhall think myſelf over and above

above recompenſed for my Pains, if the Reader may draw ſome Uſe from what is already written, which if it does, it may perhaps encourage me to venture again in a larger Treatiſe, in the mean Time, I beg a gentle Cenſure for the Faults I may have overlooked, (through Want of Time, and hurry in my daily Vocation) which will abundantly ſatisfy him who is ready to anſwer for this Undertaking, and maugre all the Oppoſition of Enemies.

POSTSCRIPT.

SINCE my first setting-out, in order to perform the Task I had promised, there are some remarkable Passages I find dispersed among the divers Authors I have peeped into, touching burying in Churches, (which at my first putting Pen to Paper, I had no Thoughts to have concerned myself with) but being thought in many Circumstances of some Use to the Publick, I was importuned to publish the same by Way of Appendix or Postscript, to let People know how far we have deviated from the Days of old; when the Churches were esteemed so sacred, that none were allowed to be buried in them; for the Archbishops of *Canterbury* were not permitted a Burying-place in that Cathedral, till *Cuthbert* Archbishop of that

that See obtained Licence from the King, that the Archbiſhops might be buried in the Cathedral Church at *Canterbury*, *Parſon's Counſellor*, *pag.* 175. If a Man is qualified to have a Seat in ſuch an Iſle or Quire in the Church, as being poſſeſſed of an ancient Meſſuage, he may preſcribe to that Meſſuage, to have the ſole Burial in ſuch Iſle, Quire, or Place in the Church, *Cook's Entries*, *pag.* 8. It is as much Simony to ſell the Ground of the Church, as it is to ſell the Ground of the Church-yard, for the Money that is paid for breaking up the Soil of the Church, is only for breaking the Floor, *Parſon's Counſellor*, *pag.* 176. And any Body may be buried in any common Part of the Church or Chancel, paying the accuſtomed Fee to the Parſon for breaking up the Soil, which for the moſt part is three Shillings and four pence in the Church, and ſix Shillings and eight pence in the Chancel, *Parſon's Counſellor*, *pag.* 176. But the common Practice is, beſides the paying for the Ground in moſt Places, you ſhall pay three or four Times double the Fees (as they call them) for performing the Office of the Church, in burying the Dead in the Church as in the Church-yard, although it is no more than an Offering in the Church than it is in the Church-yard; but let the Church be for the Living, and the Church-yard for the Dead; add to this the great Abuſe there is committed touching the Seats in the Church, I ſhall lay it down as I find it in unqueſtionable Authors, (*viz.*) The Church-Wardens with the Approbation of the Rector can diſpoſe of

the common Seats built at the Charge of the Pariſh, and place the Pariſhioners therein, according to their Degree and Quality, *Parſon's Counſellor*, *pag.* 172, 173. Thoſe that ſtand poſſeſſed of a Meſſuage in Fee-Simple, or Meſſuages; and the more a Man is poſſeſſed of in the Pariſh, the higher his Seat muſt be; but it is not to the Man, but to the Lands as the Seats are due, in Conſideration that the Lands are chargeable to the Repairs of the Church, and the Maintenance of the Miniſter, and the Poor, and all other Pariſh Charges; theſe of Right have a Seat, or a whole Seat, according to their Poſſeſſion of Lands in the Pariſh, ſo are their Seats in the Church, without being placed by the Biſhop, Ordinary, or Church-Warden, thoſe that are placed by the Church-Wardens, or any other Perſon, muſt be in Conſideration of what they pay to the Repairs of the Church, and the Miniſter's Maintenance, and all other Pariſh Charges; and the Biſhop cannot grant a Licence to a Man to have a Seat, but in Conſideration of his Lands; *Roll's Reports*, *Vol.* II. *pag.* 288. Neither can the Biſhop place any Body in the Seats that belong to Houſes; *Parſon's* Law, *pag.* 113. And in *Eſſington's* Caſe of *Wanſworth* in 1718, it was in Conſideration of his Lands, that the Biſhop granted him a Faculty for a Seat in the Church, and Sir *Simon Degge* ſaith, that the Law is now ſettled in this Caſe, that a Man that is Owner of an ancient Meſſuage might preſcribe for a Seat in any Part of the Pariſh Church; within which Pariſh ſuch Meſſuage ſtands, *Parſon's Counſellor*,

Counſellor, pag. 174; and this was ſettled by the Judges of the King's Bench, and afterwards affirmed in a Writ of Error in the Exchequer-Chamber, *Syderfin's Reports, pag.* 88, 89. But there is a ſtrange Practice in the Church at this Time in ſome Places, where the Church-Wardens will ſell a Man a Seat in the Church for his Life, (a very pretty piece of Simony) and in other Places let them out by the Year, and as the Church is ſold at this Rate to the beſt Bidder, it is to be feared that ſuch Mercenaries would ſell their Saviour, if upon Earth, for Money; and I leave the Reader to judge of the Heinouſneſs of this Crime in ſo doing.

As I have in ſome Meaſure already ſhewn the unconſcionable Impoſitions of too many of the Clergy, Church-Wardens, and Pariſh Clerks; I think it abſolutely neceſſary to let the Reader know how obnoxious ſuch arbitrary and illegal Proceedings are in the Eye of the Law; for it cannot but affect every honeſt Man to ſee his poor Neighbour labouring under narrow Circumſtances to maintain a large Family, wrecked and harraſſed by a gang of Mercenaries; for here perhaps is a poor Widow left with four or five Children, and not Bread ſometimes to eat; and a Man ſtruggling under the ſame Circumſtances, that has made away with the greateſt Part of his Effects for Suſtenance, nevertheleſs theſe Officers muſt have their Fees, (as they call them) if you are obliged to ſell the Bed from under you, and go a begging from Door to Door, as too many have by their Oppreſſion been forced to do, for the laſt Shift is

to go to the Church-Wardens, and beg and pray for the Ground, of them, to bury a Corps; after that you muſt make your Application to the Miniſter and Clerk, and beg their Fees, though there is none due, as I could ever find; and after all this Trouble of begging and praying, and laying out your calamitous Circumſtances before them, you may perhaps at laſt (after waiting their Leiſure) obtain Leave to bury your Dead, although the Funeral Service is generally curtailed and galloped over them, as if the Soul of the deceaſed was of leſs Value, becauſe he died poor; but if you are determined to proteſt againſt ſuch irregular and undue Proceedings, you muſt take Care to make your Offering to the Miniſter, that is, you muſt give him ſomewhat for performing of the Office, if it is but a Penny, it is an Offering, and will indemnify you; for was he to ſue you afterwards for his Fee (as they call it) he is puniſhable by the Statute of 25 of *Edw.* III. which was confirmed by the 13 of *Rich.* II. *chap.* 2, 3. The Penalty of this Act is, They forfeit all their Lands, Livings, Goods, and Chattels, and ſuffer perpetual Impriſonment, or you may have a *Mandamus* from the King's Bench to make them ſhew Cauſe, why they demand the Money, and there they muſt be obliged to ſhew by what Law they demand the Money; but as for the Clerk, he has neither Offering nor Fees of any kind whatſoever due, and you may have a *Mandamus* againſt the Church-Wardens for their Demands, either for the Uſe of the Bell, or any Thing elſe belonging

to

to the Church; but as for the Ground of the Church-yard, you muſt bring your *Mandamus* againſt the Miniſter for ſelling or ſuffering it to be ſold, for it is his, or you may indict him for Simony either in the Eccleſiaſtical Court or at Common Law for the ſame; and if you prove a Miniſter guilty of Simony, you may deprive him of his Living. Thus I have explained to you, as conciſely as I could, the Heinouſneſs of the Crime, and the Means to prevent it for the Time to come, that neither you nor your Poſterity may be any longer deluded under the ſpecious Pretences of a Parochial Table of Fees, that never had the Sanction of the Legiſlature, but were hatched in a Veſtry to impoſe on the Poor for the Benefit of good Living in a Tavern.

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to the Church; but as for the Ground of the Church-yard, you muſt bring your Action againſt the Undertaker for Selling or Suffering it to be ſold; for it is his, or you may indict him for Simony either in the Eccleſiaſtical Court or at Common Law for the Time; and if you prove a Miniſter guilty of Simony, you may deprive him of his Living. Thus I have explained to you, as conciſely as I could, the Heinouſneſs of the Crime, and the Means to prevent it for the Time to come, that neither you nor your Poſterity may be any longer deluded under the ſpecious Pretences of a Parochial Table of Fees, that never had the Sanction of the Legiſlature, but were hatched in a Veſtry to impoſe on the Poor for the Benefit of good Living in a Tavern.

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